IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C.M.No.923-C of 2005 &
R.S.A.No.361 of 2005

Date of Decision : September 21, 2006.

Gurdev Singh ..... Appellant

Vs.

State of Punjab and others ..... Respondents

Coram : Hon'ble Mr.Justice P.S.Patwalia

* * *

Present : Mr.Harnaresh Singh Gill, Advocate
for the appellant.

* * *

P.S.Patwalia, J. (Oral) :

The present Regular Second Appeal has been filed by the plaintiff against concurrent findings recorded by the courts below. There is a delay of 386 days in filing the appeal. For the condonation of delay, the appellant has filed C.M.No.923-C of 2005.

A reading of the judgments of the courts below would show that in so far as claim for grant of increments towards proficiency step up the same has been accepted and the suit of the plaintiff has been decreed to that extent. However challenge raised is to the order dated 14.11.1994 vide which punishment of stoppage of two increments without cumulative effect

imposed on the plaintiff has been has been repelled and the order has been upheld.

The only argument raised by the learned counsel for the appellant-plaintiff is that respondent no.3 Director, Health Services Social Insurance (SI), Punjab was not competent to pass the order as he was not the appointing authority of the plaintiff. Learned counsel contends that the plaintiff's appointing authority was Director, Health and Family Welfare, Punjab, Chandigarh. I however find no merit in this contention. A reading of the order of trial court would show that there are no service rules governing the conditions of service of the plaintiff. By an order dated 3.6.1991, work in the department has been delegated amongst The Director, Health and Family Welfare, Punjab, Chandigarh, The Director, Health Services Social Insurance, Punjab, Chandigarh and The Director, Research and Medical Education, Punjab, Chandigarh. Since the plaintiff was working under The Director, Health Services Social Insurance, Punjab, Chandigarh, he was authorized to record Confidential Reports and initiate disciplinary action in terms of order dated 3.6.1991. The relevant observations of the trial court which have been confirmed by the lower appellate court are as hereunder :-

> *"In this regard it is an admitted fact that no rules governing the services of the plaintiff has been framed as yet. The defendant no.1 vide orders dated 3.6.1991 at Ex.P-7 has distributed the work and delegated the powers to Director, Health Services (SI) defendant no.3 regarding services of employees working under him i.e.*

Director, Health Services (SI) and ministerial staff working in the field. Clause (2) of the order further clarified that Director, Health Services (SI), the defendant no.3 is authorized to record confidential reports and initiate disciplinary actions. The impugned orders Ex.P-3 ordering withholding of two increments without cumulative effect is a disciplinary action and as per rule 5(iv) which is a minor punishment and as per rule 6 punishing authority has been defined as may be specified in the rules regarding appointment and services of the employee concerned. No rules have been framed the powers to any officer for initiating action and as per rule 7 this authority has been exercised by the defendant no.1 vide orders dated 3.6.1991 Ex.P-7."

Even otherwise at the time of hearing it could not be denied that initially in the State of Punjab there was only one post of Director in the Department of Health and subsequently two more posts of Director, Health Services Social Insurance, Punjab and Director, Research and Medical Education, Punjab came into existence. These are equivalent posts and as has been found by the trial court, the work and powers have been delegated amongst the aforementioned officers by order dated 3.6.1991. I am therefore of the opinion that the Director, Health Services Social Insurance, Punjab was competent to pass the order imposing penalty of stoppage of two increments without cumulative effect.

I therefore find no merit in the present Regular Second Appeal. The application for condonation of delay in filing the appeal as also the main appeal are accordingly dismissed in limine.

September 21, 2006 (P.S.Patwalia)
monika Judge